G. R. S. 58]

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9.8

GENERAL AND REVENUE SECRETARIAT.

Indexed

Serial Nos. 1-2

Part B for

SUBJECT.

Attendance of officials before the Civil or Criminal Courts.

From the Deputy Commissioner Amritsar District

No. 6681 dt. 12-4-97

Solicits instructions as to whether an officer served either direct or ~~indirect~~ officially with a Summons from a Civil or Criminal Court is not required to obtain sanction of his Superior Officer before leaving his post and also as to whether the officer served with a Summons not as a witness but as a party is considered to be absent on duty.

GPB—3,500—21-7-14

6681
R. 4751.

OFFICE OF THE
11184
10. JUN. 1897
Jud. 3339
PEMANENT OF MYSORE

1896-7.

Per
12/4/97

SECTION Courts.

FILE No. 40 of 1896-97

SERIAL No. 1

From The Deputy Commissioner
Tumkur District

To The Secretary to the Government
of Mysore
General and Revenue Depts.

Dated } April 1897.
Despatched
Received

Camp
General No. C.
No.

Enclosure No.

Soliciting instructions as to whether an officer served either direct or officially with a summons from a civil or criminal Court is not required to obtain sanction of his superior officer before leaving his troop and also as to whether the officer so served with a summons not as a witness but as a party is considered to be absent on duty.

Regd & sent with
Ref of 11/12/97

General Records:-

See Dy: Comm's letter and ... as to the ... upon the subject.

H.S.

3/4.

... as Assistant ... whether ... and ... served.

H.S.
3/4/97

Tumkur District
Deputy Commissioner's Office
Camp Chennakesavapura
Dated the 10th April 1897

Camp
No. C.

From

The Deputy Commissioner
Tumkur District

To.

The Secretary to the Government
of Mysore
General and Revenue Departments.

Sir,

I have the honor to solicit instructions as to whether an officer who is served with a summons requiring his attendance before a criminal or civil Court as witness, is not required to obtain the sanction of his superior before leaving his post. The summons is either served direct on the officer or through his superior. The mere fact of the summons being served through the superior officer

should not, I think, be construed as equivalent to the grant of his permission to the official concerned to leave his post. I am of opinion that the proper course is for the official served with the summons to apply for his superior officer's permission to leave his post, so that arrangements may be made for the conduct of his duties during his absence.

2. Under para 7 of Section XLIV of the Land Revenue Rules, attendance of officials before a criminal or civil Court as witnesses is treated as absence on duty. I beg to be instructed whether an officials absence in obedience to a civil Court summons in a case in which he is a party and not a witness may be similarly

regarded as on duty.

I have the honor to be
Sir
Your most obedient Servant
M. Narain Rao
Deputy Commissioner
Tumkur District.

Read. Letter Camp No: C
Dated 10th: April, 1897,
from the Programme, Num-
-kur, soliciting instruc-
-tions as to whether an
Officer served with a
Summons requiring
his attendance before a
Civil or a Criminal Court
as a witness is not required
to obtain the sanction
of his official superior before
leaving his post, & as to whether
an officer attending a Civil Court
in obedience to a summons in
a case in which he is himself a party
is to be regarded as on duty.
Read. Copy of the Chief
Court's Memo, No: 4778/2925
Dated 31st. March, 1896,
regarding the issue of Sum-
-mons to a public servant.

Order. No: 13897-905- dt 30/6/97
This 2754
As regards the first question
raised by the Programme, Government observe
that the ~~from the above Order~~
of the Chief Court, ~~has decided~~
the ~~exact~~ reason
~~quite clear that~~
-able

time ~~will be given~~ consequently except in urgent cases
and that the Officer
served with a summons
~~Cannot~~ should not leave his post
without obtaining due
permission from his
Official superior, on
whom rests the responsi-
bility of making arrange
ments for the performance
of duties during the absence
of the former. The
mere fact of the sum-
mons having been
served through the
Official superior cannot
be taken to be tanta-
mount to permission
asked for & obtained by the Officer concerned
to enable him to leave
his post.
2. The Case of a
public servant having
to appear before a Civil
or a Criminal Court
as a witness is different
from that in which
he is summoned as
a party in his private
capacity. In the
latter Case, he cannot
be

As regards the second question raised, Govt are of opinion that

regarded as absent
on duty - ~~could be shown~~
~~make his own plea~~
~~arrangement~~.

Subd 22/5/97
may also be
printed.?

N
20/5/97

Secretary

The Hon'ble, Munsif Gr II
" Members of Other Depts
" Registrar, Chief Court
Mysore.

Subd to Secy GR 20/5/97

20/5/97

READ :—

Letter Camp No. C, dated 10th April 1897, from the Deputy Commissioner, Tumkur, soliciting instructions as to whether an officer served either direct or through his official superior with a summons requiring his attendance before a Civil or a Criminal Court as a witness, is not required to obtain the sanction of his official superior before leaving his post; and as to whether an officer attending the Civil Court in obedience to a summons, in a case in which he is himself a party, can be regarded as absent on duty.

READ :—

Proceedings of the Chief Court of Mysore, No. 4778—2925, dated 31st March 1896.

Letter No. 1736, dated 21st March 1896, from the Deputy Commissioner of Mysore, stating that summonses are issued by Civil Courts direct to subordinates of the Revenue Department, and that it is desirable that such summonses should be sent through their official superiors. If the instructions contained in this Court's Circular Letter No. 62, dated 24th July 1884 (copy annexed) are attended to, all inconvenience will be obviated. If the Deputy Commissioner will bring to notice particular cases in which the instructions contained in the above Circular Letter are not attended to, the Court concerned will be called on for explanation.

Circular Letter No. 62, dated 24th July 1884, from the Registrar, Chief Court, to the Judges of all Civil Courts.

I am directed to state that whenever it is found necessary to issue a summons to any person in the service of Government, or of any Railway Company, the Court issuing the summons shall, having regard to the provisions of Sections 69 and 167, Civil Procedure Code, fix such a reasonable time for compliance with the summons as would admit of the persons summoned communicating with his official superiors with a view to arrangements being made for the performance of his duties during his absence.

No. 13897-905—Mis. 2754, DATED, BANGALORE, 30TH JUNE 1897.

ORDER THEREON.—As regards the first question raised by the Deputy Commissioner, Government observe that the Chief Court has directed the grant of reasonable time, and that consequently, except in urgent cases, the officer served with a summons should not leave his post without obtaining due permission from his official superior, on whom rests the responsibility of making arrangements for the performance of duties during the absence of the former. The mere fact of the summons having been served through the official superior cannot be taken to be tantamount to permission asked for and obtained by the officer concerned to enable him to leave his post.

2. As regards the second question raised, Government are of opinion that the case of a public servant having to appear before a Civil or a Criminal Court as a witness is different from that in which he is summoned as a party in his private capacity. In the latter case, he cannot be regarded as absent on duty.

C. SREENIVASIENGAR,
Secy. to Govt.; Gen. & Rev. Depts.

To—The Deputy Commissioner, Tumkur District.
The Deputy Commissioners of other Districts.
The Registrar, Chief Court, Mysore.

Exd.—H.A.R.

1896-97

GOVERNMENT OF MYSORE

GENERAL

PROCEEDINGS

Dated 30th June 1897

No. 13897-905 / Mis. 2754

Stating that, except in urgent cases, an officer served with a summons should not leave his post without obtaining due permission from his official superiors, and that a public servant having to appear before a Civil or Criminal Court as a party in his private capacity cannot be regarded as absent onduty.

M.G.C.P.B.—9-7-97—120